

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Andre Fletcher,)	C/A No. 4:11-2851-JFA-TER
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Mr. Pittman, Case Worker,)	
)	
Defendant.)	
_____)	

The *pro se* plaintiff, Andre Fletcher, brings this action pursuant to 42 U.S.C. § 1983 claiming violations of his constitutional rights with regard to his “max-out” date. At the time his complaint was filed, the plaintiff was an inmate at the South Carolina Department of Corrections (SCDC). It appears that the plaintiff was released from the custody of the SCDC on or about November 1, 2011.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this court should summarily dismiss this action without prejudice. Specifically, the Magistrate Judge opines that the claims against the defendant are really against the SCDC for damages and that SCDC has immunity from suit in this court pursuant to the Eleventh Amendment of the United States Constitution. Further, the Magistrate Judge opines, regarding the claims against Mr. Pittman in his individual

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

capacity, that the plaintiff has failed to state a claim on which relief may be granted. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation and without a hearing.

The plaintiff was advised of his right to file objections to the Report and Recommendation, and he has failed to do so within the time limits prescribed. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper and incorporates the Report herein by reference. Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

January 27, 2012
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge